IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE PIUS C.KURIAKOSE

THURSDAY, THE 21ST JUNE 2007 / 31ST JYAISHTA 1929

WP(C).No. 13459 of 2004(B)

PETITIONER:

C.K.PHILIP,
CHERUPARAMBIL HOUSE, PAYYAMPILLY AMSOM, DESOM,
MANANTHAVADY TALUK.

BY ADV. SRI.N.SUKUMARAN

RESPONDENTS:
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1. K.A.ABDURAHIMAN, S/O. KUNJALY HAJI,
KADAYINGAL, THONDARNADU VILLAGE,MANANTHAVADY TALUK

2. MYMOONA, W/O. ABDULLA,
KADAYINGAL HOUSE, THONDARNAD VILLAGE,
MANANTHAVADY TALUK.

BY ADV. SRI.P.K.ABOOBACKER(EDATHALA)

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 21/06/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1	TRUE COPY OF THE PERMIT DTD.8.3.2004 ISSUED FROM THE GEOLOGIST OF THE DEPT. OF MINING AND GEOLOGY, WYNAD DIST. BEARING NO.DO.W/M.473/2004.
EXT.P2	TRUE COPY OF THE PLAINT O.S.72/2004 OF THE MUNSIFF'S COURT, MANANTHAVADY DTD.30.3.2004.
EXT.P3	TRUE COPY OF THE AFIDAVIT FILED IN SUPPORT OF IA 240/2004 IN O.S.72/2004 OF THE MUNSIFF'S COURT, MANANTHAVADY DTD.30.3.2004.
EXT.P4	TRUE COPY OF THE INJUNCTION ORDER IN I.A.240/2004 IN O.S.72/2004 OF THE MUNSIFF'S COURT,MANANTHAVADY DTD.5.4.2004.
EXT.P5	TRUE COPY OF THE JUDGMENT IN W.P.(C)25408/2003 DTD.10.12.2003.
EXT.P6	TRUE COPY OF THE PROEEDINGS OF THE THONDERNAD GRAMA PANCHAYAT COMMITTEE DTD.6.2.2004.
EXT.P7	TRUE COPY OF THE CERTIFICATE ISSUED FROM THE THONARNAD GRAMA PANCHAYATH DTD.6.2.2004 BEARING NO.A5.117/2004.
EXT.P8	TRUE COPY OF THE RESOLUTION OF THE THONDARNADU PANCHAYATH DTD.21.11.2003 BEARING NO.290/2003.

TRUE COPY

P.A.TO JUDGE

PIUS C. KURIAKOSE, J.

W.P.(C) No. 13459 OF 2004

Dated this the 21st day of June, 2007

JUDGMENT

The submissions which were made by the learned counsel for the petitioner against Ext.P4 interim order of injunction cannot be said to be totally unattractive. However, I do not think that at this distance of time, this court will be justified in interfering with Ext.P2 and that too by invoking the supervisory jurisdiction under Article 227. Ext.P4, though interim in nature was appealable and at any rate it was open to the petitioner to have filed his objections to the IA, produced the documents he has produced in this Court and got a variation of Ext.P4.

Mr.P.Chandrasekhar, learned counsel for the respondent submits that the petitioner did file objections to the IA and that the matter was heard by the court below and the order of ex-parte injunction, Ext.P4, was later confirmed and that the suit is pending. Whatever that be, I do not think that at this distance of time there is need for interference with the impugned order. Challenge against Ext.P4 fails. Since the suit is of the year 2004, I direct the Munsiff Court, Mananthavady to special list the suit for trial in the earliest available special list and dispose of the same in accordance with law. The learned Munsiff shall not be influenced in any manner that the order of injunction was confirmed by

him, after hearing both sides. Learned Munsiff should consider the evidence adduced by the parties at trial only while deciding the suit.

PIUS C. KURIAKOSE, JUDGE

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